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06/254,313	04/15/81	CHENARD J	SH(1343)BW

STANLEY A. MARCUS
P. O. BOX 1104
RAHWAY, NJ 07065

EXAMINER	
MORE, V	
ART UNIT	PAPER NUMBER
143	6

MAILED DATE MAILED: JUN 16 1982

GROUP 140

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☐ This application has been examined. ☒ Responsive to communication filed on 4-5-82 ☒ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), — days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. ☐ Notice of References Cited by Examiner, PTO-892
2. ☐ Notice of Informal Patent Drawing, PTO-948
3. ☐ Notice of References Cited by Applicant, PTO-1449
4. ☐ Notice of Informal Patent Application, Form PTO-152
5. ☐ _____

Part II SUMMARY OF ACTION

1. ☒ Claims 1,5 to 15, 18 to 22, 25 to 35, 38 to 41 and 44 to 54, 56 to 58 are pending in the application.
   Of the above, claims _____ are withdrawn from consideration.
2. ☐ Claims _____ have been cancelled.
3. ☐ Claims _____ are allowed.
4. ☒ Claims 1,5 to 15, 18 to 22, 25 to 35, 38 to 41, 44 to 54 and 56 to 58 are rejected.
5. ☐ Claims _____ are objected to.
6. ☐ Claims _____ are subject to restriction or election requirement.
7. ☐ The formal drawings filed on _____ are acceptable.
8. ☐ The drawing correction request filed on _____ has been ☐ approved. ☐ disapproved.
9. ☐ Acknowledgment is made of the claim for priority under 35 U.S.C. 119. The certified copy has
   ☐ been received. ☐ not been received. ☐ been filed in parent application, serial no. _____,
   filed on _____.
10. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
11. ☐ Other

12. The double patenting rejection has been overcome by applicants letter of express abandonment dated April 19, 1982 of record in the parent application file, S.N. 070,503 filed August 28, 1979.

13. The rejections under 35 USC 102 over each of Brecker and Gough have been overcome by the amendment dated April 5, 1982.

14. Claims 1, 5 to 15, 18 to 22, 25 to 35, 38 to 41, 44 to 54 and 56 to 58 are rejected under 35 U.S.C. 103 as being unpatentable over Stapfer et al taken with Weinberg, Kugele and Gough for the reasons stated in paragraph 15 of the Office action dated January 20, 1982. Although, the invention is not identically disclosed or described as set forth in section 102 of Title 35 U.S.C., the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

At best the comparative data on pages 32 and 37 to 39 relate that the 2-mercapto ethyl ester of stearic acid or decanoic acid provides a higher degree of thermal stability when used with two or three

organotin mercapto or maleic acid/ester stabilizers, an organotin halide being an optional adjuvant stabilizer, than similarly constituted stabilizer systems wherein the mercapto stabilizer component is either a dodecyl or stearyl mercaptan, or decyl or stearyl ester of mercaptoacetic acid. Given the diversity of mercapto stabilizers within both applicants and Gough's as well as Kugele's purview including for example the bis derivatives wherein G of the present derivatives is a mercapto alkyl ester group making for compounds corresponding to Goughs (g) derivatives in col. 5 wherein "j" is zero and "h" is 2, no basis is seen for attributing unexpected results to the present broad class of w-mercapto stabilizers based on a comparison of merely two species of the present genus with two alkyl mercaptans and two mercapto acetic acid alkyl esters of the prior art. Moreover applicant has not established that contrary to the references teachings organotin-mercapto synergism is not effected by the above comparative tested systems but merely that applicants system (which is not representative of the scope of the claims for the reasons stated above) enhances the organotin's efficiency to a higher degree.

Indeed Stapfer relates paragraph bridging pages 22 to 23) that discoloration incurred by the sulfur compounds per se during thermal processing has been a disadvantageous factor heretofore in their use. Given their expected synergy with organotin compounds, a position applicants have not rebutted and in the absence of any plausible reason why the same ultimate level of stabilization achieved would be expected to be equivalent (note the differences in performance in Table 1 of Stapfer's test samples showing a difference of ten minutes for samples 2, 4, 6, 8 and 10 in developing orange coloring and showing substantial discoloration (blackening) at 80 minutes for sample 8 whereas samples 2 and 6 developed this color at 60 minutes and samples 4 and 10 showed no blackening even at 80 minutes) applicants argument is untenable. In each instance a different sulfur component was utilized. Applicants limited tests are considered but the routine optimization the average artisan would perform in following the prior arts' teachings and as such hardly qualifies as proof of unexpected conjoint stabilization effects.

Applicants reliance on Brecker (U.S. Patent

4,256,618 of record) to substantiate unobviousness in utilizing the instant mercapto alcohol esters of a carboxylic acid inasmuch as Brecker relates (col. 6, lines 34 et seq.) that re antimony mercapto acid/ester synergy with mercapto carboxylic acid esters similar results are not demonstrated by using an organotin mercaptide in lieu of the organo antimony mercaptide, is not convincing. Table III in cols. 19 and 20 of the patent does relate that adding an equivalent amount (0.75) to an organotin-stabilized resin composition fails to provide any enhancement as compared to its addition to an antimony mercaptide-stabilized composition. However this showing does not relate that supplanting a portion of the organotin compound with the mercapto derivative fails to provide results as good or better than the organotin compound's use per se. Since this is the chief benefit of the sulfur compound's usage according to Stapfer (page 24, last paragraph) which stabilization efficiency mode of testing corresponds to applicants (page 29 Example VIII) no significance can be attached to Brecker's statement since it is not based on using the same criteria.

14. THIS ACTION IS MADE FINAL.

Veronica P. Hoke

VERONICA P. HOKE
PRIMARY EXAMINER
ART UNIT 143

VHoke:bh
(703) 557-3804
06/08/82